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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,611	03/21/2005	Steven Gutteridge	BB1533USPCT	7575

7590 09/25/2007  
E I du Pont de Nemours & Company  
Legal Patents  
Wilmington, DE 19898

EXAMINER
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LI, RUIXIANG

ART UNIT	PAPER NUMBER
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1646

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/528,611	GUTTERIDGE ET AL.	
	Examiner	Art Unit	
	Ruixiang Li	1646	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 16-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 11-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/13/2005</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group III, claims 11-15, drawn to an isolated polypeptide of SEQ ID NO: 128, in the reply filed on 07/16/2007 is acknowledged. The traverse is on the ground that this application is a US national stage application filed through the Patent Cooperation Treaty and that MPEP Section 1850 requires that for a restriction to be proper in such a case the Examiner must justify his requirement for restriction by addressing whether or not the application claims a "single general inventive concept". Applicants submit that the Examiner asserts that Takashima et al. is novelty destroying for claims 1-5 and 7-9 and that therefore the application does not claim a single inventive concept. Applicants argue that Applicants have eliminated reference to a nucleic acid encoding SEQ ID NO: 128 in claim 1 and SEQ ID NO: 127 in claim 6 in a preliminary amendment. Applicants' arguments have been fully considered, but are not deemed to be persuasive because the lack of unity is based upon the originally presented claims, not the amended claims after the lack of unity is issued.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-33 are pending. Claims 11-15 are under consideration. All other claims are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to

a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/16/2007.

***Information Disclosure Statement***

3. The Information Disclosure Statement submitted on 05/13/2005 has been considered by the Examiner.

***Drawings***

4. The drawings submitted on 03/21/2005 are accepted.

***Claim Objections—Minor Informalities***

5. Claims 11-15 are objected to because they recite non-elected subject matter (non-elected amino acid sequences represented by SEQ ID NOS). Appropriate correction is required.

***Conclusions***

6. No claims are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Gary Nickol, can be reached on (571) 272-0835. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at the toll-free phone number 866-217-9197.



Ruixiang Li, Ph.D.  
Primary Examiner  
September 22, 2007

RUIXIANG LI, PH.D.  
PRIMARY EXAMINER